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HELPFUL HINTS IN COMPLETING YOUR APPLICATION TO REPLACE THE PUBLIC GUARDIAN AND TRUSTEE AS STATUTORY GUARDIAN

2008-06036/

The Office of the Public Guardian and Trustee
Helpful Hints in Completing your Application to replace the Public Guardian and Trustee as Statutory Guardian
ISBN 978-1-4249-3906-0 (PRINT)
ISBN 978-1-4249-3907-7 (HTML)
ISBN 978-1-4249-3908-4 (PDF)
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Disponible en français

Helpful Hints

☞ Completing the application to replace the Public Guardian and Trustee as statutory guardian

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Introduction

The enclosed Application (Form 1) and Management Plan (Form 2) are important legal documents.

When properly completed they should clearly explain to the Public Guardian and Trustee how you plan to manage the financial affairs of your incapable relative.

These forms should be completed carefully, legibly and with as much detail as possible. This avoids delays in processing your application.

The following is a list of useful tips, which can help avoid processing delays.

General Hints

- ☑ Type or clearly print on both the forms.
- ☑ Forms submitted in pencil, pencil crayon or copies cannot be processed and will be returned to you.
- ☑ Both forms must be signed and dated. If you are applying with another family member, they must also sign the Application Form and Management Plan.
- ☑ Where any particular section is too small to include necessary information, please add additional pages as part of your application.
- ☑ Complete all sections of both forms in full. If a section doesn't apply, you should put, "none" or "not applicable." Do not simply draw a line through a non-applicable section.

Form 1 – Application Form

Page 1: Name, address and telephone of incapable person

- ☑ The name of the incapable person should be set out here exactly as in section (A) of the *Form 2-Management Plan*.
- ☑ Address and telephone must be for the last-known place where the incapable person is staying, even if this is a hospital or other temporary facility. If the incapable person doesn't have their own phone where they are staying, the phone number of the institution itself is acceptable.

Page 1: Relationship to incapable person

- ☑ In item 3 ("relative") you must state what your relationship to the incapable person is, not what their relationship to you is. For example, if the incapable person is your mother, you should put "*son*" (or "*daughter*"), not "*mother*."
- ☑ If you are married to the incapable person, please mark box 1 "spouse." The Public Guardian and Trustee, however, won't refuse your application if you mark box 3 "relative" and write in, "spouse," "wife," or "husband."
- ☑ If you are applying jointly with another relative, this must be clearly marked.

Page 2: Other persons entitled to apply

- ☑ As a general rule, relatives over the age of 18 who are directly related to the incapable person must be included, e.g., spouse, brother, sister, children and parents.
- ☑ In a case where a closely related relative is out of contact with the incapable person that should be clearly stated in the application.
- ☑ More remote relatives (e.g., aunt, uncle, nephew, niece, certain in-laws, grandchildren) should be included if the incapable person no longer has any more directly related relatives or if that person is in close contact with the incapable person.
- ☑ The relatives of the incapable person who are at least 18 years of age are entitled to apply in competition with you for the guardianship, and have a right to be informed of your application
- ☑ Each column must be completed in full.
- ☑ Please attach further pages only if space isn't sufficient.
- ☑ If you state that the person isn't informed, a reasonable explanation of why not should be attached (*e.g.*, "Person hasn't been in contact with either the incapable person or the applicant for years and years.").
- ☑ Where relatives are stated as "opposing" the application, you should provide reasons if you know them. The Public Guardian and Trustee may contact these individuals to ask why they oppose your application.
- ☑ If the incapable person has an incapable relative, this information should be set out under the column "Support or Oppose Application" be saying, "person is incapable."
- ☑ Don't put "yes" in the column "Support or Oppose Application." Put either "support" or "oppose."

Pages 2 and 3: Applicant's Statement

Most of these questions should be self-explanatory.

Section 1

- ☑ The Public Guardian and Trustee may ask you to verify exactly what your level of contact with the incapable person is.

Section 3

- ☑ The value should equal the total value of assets in *sections (B) through (I)* in your *Management Plan (Form 2)* minus liabilities in *section (J)*.

Section 6

- ☑ Not all persons who have declared bankruptcy are "undischarged bankrupts." If you are unsure of your status, please check with your trustee in bankruptcy or legal advisor on whether your bankruptcy remains "undischarged."

Section 8

This is a critical and often misunderstood section

- ☑ The Public Guardian and Trustee will likely refuse your application if your response is "no." Arranging for security is often required and the only form of security acceptable to the Public Guardian and Trustee is a surety bond. It is not the same thing as, "Being bonded."
- ☑ You will be notified at the time we advise you if your Management Plan is appropriate whether you will need to post a surety bond. It may depend on the value of the assets. We will also send you a list of surety providers. These are private insurance companies, not government agencies.
- ☑ Where the applicant is the incapable person's spouse, the Public Guardian and Trustee generally[1] does not require a bond if the spouse is prepared to swear an affidavit that they won't bring a lawsuit against their spouse to divide their property without the express consent of the Public Guardian and Trustee. The spouse's children may be asked to consent to this arrangement.
- ☑ All applicants (even spouses) who don't reside in Ontario, regardless of the value of the incapable person's assets, will be required to post a surety bond.
- ☑ If the applicant applies jointly with the spouse, a bond would be required unless the assets of the incapable person are minimal.

Page 3 – second address section

- ☑ This section is only used in applications for joint guardianship and is used to indicate who the main contact person is.
- ☑ If you are asking to be the sole guardian, it is best to state the section is "not applicable."

Page 4 – Notice of Fee

- ☑ You may ask the Public Guardian and Trustee to waive her fee. To do this, write your request clearly somewhere on this page and provide reasons why the fee should be waived (*e.g.*, "assets and income too meagre and the $382 cost would cause the incapable person 'undue hardship.' ")
- ☑ *Don't pay the fee in advance.* The Public Guardian and Trustee only asks for her fee when your application is satisfactory.

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[1] An exception is where the spouse's assets exceed $200,000 or $500,000 including a house.

Form 2 – Management Plan

General

- ☑ A plan is required for all assets of the incapable person. If more than one asset is set out in a given section, your plan should address all the assets.
- ☑ All plans must benefit the incapable person.
- ☑ Sections that aren't applicable should be clearly marked as "none" or "not applicable."
- ☑ In all cases where there is a plan to sell something that belongs to the incapable person, your plan must outline how proceeds from the sale would be used.
- ☑ Many times, the details of your incapable relative will be unknown to you. To get the information, you may contact the incapable person's representative at this office. If the Public Guardian and Trustee does not have the information, the representative will usually be able to obtain it for you.

Section A

- ☑ All names used in this section must exactly match the name information included in the Form 1.

Section B – Land

- ☑ Use this section to disclose all real estate owned by the incapable person whether they live on site, whether used for rental income purposes, vacant, *etc.*
- ☑ This section isn't applicable if the incapable person does not own real estate and lives in a rented apartment or house.
- ☑ The incapable person may *co-own* the property with someone either as a joint tenant or a tenant-in-common. This information should be set out clearly in the form. Only the incapable person's share of the "estimated market value" should be included. For example:

B. LAND:

Type and address of property or properties	Estimated market value	
House at 3131 1st Lane, Anytown, Ont., N0T 0N3, held as a joint tenancy with spouse.	**Total value: $200,000, incapable person has a 50% interest**	**$100,000.00**
	TOTAL:	**$100,000.00**

- ☑ If your plan is to sell the incapable person's house, the Public Guardian and Trustee will normally require two independent appraisals or estimates of market value from realtors. Please first check with the incapable person's representative. If our office has done an appraisal in the past six months, the Public Guardian and Trustee may forgo this requirement provided you indicate in your plan that we have completed an appraisal within the last six months.

- ☑ When the plan is to sell the house, in all likelihood you will be required to file an amended management plan after the sale to update the information and show how the proceeds from the sale will be managed (and to remove reference to the ownership of a house in this section).

- ☑ In describing the land, you may use the mailing address. The only exceptions to this are when the mailing address is a "rural route," "general delivery" or a postal box. In these cases, the Public Guardian and Trustee requires a legal description. The representative will assist you in determining what the legal description would be.

Section C – General Household Items and Vehicles

- ☑ If the incapable person has neither "general household" nor "vehicles," you must clearly indicate that "none" applies in both cases. For example:

C. GENERAL HOUSEHOLD ITEMS AND VEHICLES: (Give general description for vehicles, list year, model, make.)

Item	Particulars	Estimated current market value
General household:	**There are no general household items and no vehicles**	**$0.00**
Vehicles:		
	TOTAL:	**$0.00**

- ☑ Full particulars of vehicles are required, including: make, model, year, and general condition. For example, "1977 Olds Cutlass 4-door sedan in excellent working condition."

- ☑ Information about insurance coverage on the vehicle is required.

- ☑ If general household items are to be stored, full information must be provided as to where the items will be stored. If there are costs associated with storage, these should be set out in *section L-expenses.*

- ☑ General household items in this section is often confused with "Valuables" in *section D.* Only list the assets once.

- ☑ General household items typically include: furniture, knick-knacks, wall hangings, costume jewellery, clothing, linen, appliances, TVs, stereos, VCRs, radios, DVDs, electronics, toys, games, tools, shelving, books, cutlery, CD's and sporting equipment.

Section D – Valuables

- ☑ You may be required to file an appraisal in a case of highly valuable items, but check first with the representative of this office. An investigation and appraisal of valuables may have been done already.

- ☑ Valuables typically include: antiques (*e.g.*, Ming vase, Georgian furniture, 18th-c. brass work *etc.*), art, jewellery, collectables, gemstones, precious metals, coin or stamp collections, musical instruments.

Section E – Savings and Savings Plans

- ☑ List all bank accounts belonging wholly or in part to the incapable person.

- ☑ List the account number, current balance, and the name and address of the financial institution. If the Public Guardian and Trustee holds monies of the incapable person this

should be set out indicating under particulars the amount and a statement like, "Funds held by the PGT."

- ☑ List the type of account and who has access to it (*e.g.*, chequing account owned jointly between the incapable person and her spouse).
- ☑ If the incapable person has balances in their bank account over that covered by federal insurance laws for deposits (over $100,000 at this writing – September 2006), a plan must usually be provided that such funds be withdrawn from the account and re-invested in some other way for the benefit of the incapable person (*e.g.*, applied toward purchase of a savings bond). It is unwise to retain excessive amounts of cash unless a significant expenditure is planned for the immediate future.
- ☑ Generally, guardians should plan to hold the savings accounts and other plans of incapable "in trust on behalf of an incapable person." As such, the Public Guardian and Trustee generally requires that the accounts be converted to trust accounts.
- ☑ Any accounts held jointly may have to be severed with the exception of accounts held between spouses. You may be asked to provide a history of the account to help us understand what share of the account belongs to the incapable person.
- ☑ Only the incapable person's share of the account should be set out as its "Current amount or value."
- ☑ This section is sometimes confused with *section F-securities and investments*, especially regarding RRSPs or GICs. However, as long as these assets are properly disclosed and an appropriate management plan is provided, the Public Guardian and Trustee won't refuse your application for this reason alone. But only list the assets once.

Section F- Securities and Investments

- ☑ Full particulars of securities need to be included, such as type of security, account number, terms, name of financial institution, and investment house or brokerage firm.
- ☑ Ideally, securities and investments of incapable people should also be held in trust for their benefit when it is practical to do so (*e.g.*, on the maturity or renewal date).

Section G – Accounts Receivable

- ☑ Don't confuse accounts receivable with liabilities (or "debts"). The Public Guardian and Trustee won't approve your application where "liabilities" are mistakenly identified as "accounts receivable." *Section J-Liabilities* alone should be used to disclose debts and mortgages owed by the incapable person.
- ☑ Accounts receivables are monies **owed to** the incapable person (*e.g.*, overdue payments stemming from: loans from the incapable person, mortgages given from the incapable person, support, and court-awarded damages in favour of the incapable person).
- ☑ This section is sometimes confused with *section M-legal proceedings* in a case where litigation is still proceeding and damages to be paid to the incapable person remain undetermined. It is best to use *section M-legal proceedings* to list such matters. Until

damages are actually awarded by the court, they aren't technically considered accounts receivable.

Section H – Business Interests

- ☑ This section is sometimes confused with *Section F-securities and investments* where the incapable person is the holder of stocks in a corporation. As long as the asset is fully disclosed and an appropriate plan is provided for its management, the Public Guardian and Trustee won't refuse your application on this basis. But remember to only list the asset once.
- ☑ This section is sometimes confused with *Section B-land* where the incapable person is a landlord renting out real estate for profit. As long as the asset is fully disclosed and an appropriate plan is provided for its management, the Public Guardian and Trustee won't refuse your application for this reason alone.
- ☑ Normally, a business interest means the incapable person was running some sort of private enterprise, such as: farm, rental housing, service business *etc.*
- ☑ Because the vast majority of business interests are usually run in some form of partnership, proprietorship, corporation *etc.*, the full names of the businesses should be set out.
- ☑ If the incapable person is a limited partner, general partner or sole proprietor, this information must be noted. This information is necessary in arriving at the true value of their interest in a business. State if there are partnership agreements or other relevant legal documents. You may be asked to provide copies of these documents.
- ☑ Only the incapable person's share of the business should be included under "Estimated Current Value." In some cases, it may be very difficult to arrive at a reasonable estimate. You may need to either consult with the Public Guardian and Trustee representative or obtain independent financial advice to determine the value of their interest.

Section I – Other Property

- ☑ Generally, "other property" includes any of the incapable person's assets that don't fit into the other categories. Some examples include: cash surrender value of a life insurance policy, pre-paid funeral plan, overseas property, inheritance, entitlement under a division of property order (e.g., divorce or separation agreement), and contents of a safety deposit box if not listed elsewhere in the management plan already.
- ☑ This section is sometimes confused with *section M-legal proceedings* in a case where litigation is still underway and damages to be paid to the incapable person remain unknown. We prefer that *section M-legal proceedings* be used in that instance.
- ☑ In many cases, the incapable person owns a safety deposit box. You won't likely be able to open it until after your appointment. In all such cases, you must state in the application that the safety deposit box exists and where it is located. Once you have opened the box, you will need to inform the Public Guardian and Trustee of its contents. If any newly found assets turn out to be valuable, you likely will be required to file an amended management plan to add these assets to the list of the incapable person's property and you may be asked to post additional security.

Section J - Liabilities

- ☑ It is important to include the following information about a mortgage: name of financial institution or other lender, outstanding balance, and whether the mortgage is jointly held.
- ☑ Liabilities often include outstanding credit card or line of credit charges. A plan will be needed to pay off these debts. The Public Guardian and Trustee will generally require that you agree to cancel all credit cards and lines of credit of the incapable person.
- ☑ Only the incapable person's share of any debts or mortgages should be included.

Section K - Income

- ☑ List all of the incapable person's income sources together with annual total amounts for *each* source. Pensions include: ODSP, GIS, OAS, CPP disability, and retirement or disability pensions from private plans.
- ☑ Income that is often overlooked, but must be included, is: GST refunds, interest on an investment portfolio, payments from annuities, support payments, and rental income.
- ☑ If income is higher than expenses in *section L*, set out how you intend to invest or handle the excess.

Section L – Expenses

- ☑ Unlike the balance of the sections in the Management Plan, the plan portion of this section is broken down into six specific sections lettered (a) through (f), usually on page 5 of the application.
- ☑ Each of the subsections (a) through (f) must be completed in full even if the response is "not applicable" in each case.
- ☑ In any case where expenses are subsidized so that the incapable person doesn't actually pay for them (*e.g.*, subsidized nursing home costs), you should clearly indicate that under "particulars."
- ☑ If the incapable person lives at a nursing home, any expenses not covered under the general terms of the "room and board," should be set out as further expenses. These typically include: personal care costs, entertainment, clothing, medical services and medicine, recreation *etc.*
- ☑ Even if you are planning to sell the incapable person's house, all existing costs associated with the house must be included. They can later be removed on the sale of the house when filing an amended management plan.
- ☑ Section 37 of the *Substitute Decisions Act* sets out how gifts, loans and charitable donations can be made. Generally, they are only allowed if the incapable person can afford them and if it was known that the incapable person typically made such gifts, loans and charitable donations while they were capable. You may need to consult a lawyer about the legal ramifications of section 37 of the *Substitute Decisions Act*.

☑ In all cases where expenses exceed income, you must provide a plan on how the deficit will be covered (*e.g.*, from capital of incapable person's estate, paid for by supportive family members *etc.*).

Section M – Legal Proceedings

☑ There are a multitude of possible legal proceedings. Before completing this section it would be prudent to check with the incapable person's representative for any information on possible lawsuits or legal claims. Also, you may need to consult with the incapable person's lawyer if they have one.

☑ Some of the proceedings that the Public Guardian and Trustee most commonly encounters include: divorce, injury claims, estate administration and breach-of-contract claims.

☑ All four of the subsections (a), (b), (c) and (d) must be completed, even if the response is "not applicable" in each case.

☑ If a Judgment has issued awarding the incapable person damages, and they haven't yet been collected, a plan for the recovery of damages should be set out.

☑ Where legal proceedings exist or are anticipated, a plan is needed for contingent liabilities and legal expenses associated with the lawsuit.

☑ If the incapable person's spouse has died recently, that fact needs to be disclosed here along with a plan to protect the incapable person's interest in the estate. Because estate law can be complex, your plan should state whether you will obtain independent legal advice about how best to proceed.

☑ If the incapable person was injured because of an accident they may be entitled to insurance proceeds or damages. A plan needs to be set out on how you will legally protect the incapable person's civil rights to pursue damages. Because this area of law can be complex, your plan should state whether you will obtain independent legal advice on how best to proceed.

Section N – Additional Information

☑ *Re subsections (a) and (b):* Ideally, supportive family members and caregivers of the incapable person should be consulted. If not, an explanation is required.

☑ *Re subsection (c):* you should try to find out the views of the incapable person about your plan. They may not support it and the Public Guardian and Trustee may refuse your application on this ground. If there are reasons why you have not consulted the incapable person, set them out here in detail.

☑ *Re subsection (d):* Ideally, supportive family members and caregivers of the incapable person should be consulted on a regular basis after your appointment. If not, an explanation would be required.

☑ *Re subsection (e) re Will:* If no Will exists, it is acceptable to simply say that. A person who has a financial guardian may need to take special steps before making a will if they are still mentally able to do so. If the incapable person wants to make a will, you should retain a lawyer to review this with the incapable person after you are appointed statutory guardian.

Conclusion

Hopefully, you found this instructional booklet helpful. You can always contact our staff for further clarification, where necessary.

Below is a list of links to other resources related to guardianship:

1. www.e-laws.gov.on.ca. This website contains all of the laws of Ontario, including the *Substitute Decisions Act* – the primary statute in Ontario that governs guardianship.

2. www.attorneygeneral.gov.on.ca. This is the website for the Attorney General. It includes bulletins and background about power of attorney, guardianship, the Public Guardian and Trustee and related matters. It also includes copies of the various forms needed to file an application to replace us, power-of-attorney kits and the like.

FORM 1 - APPLICATION TO REPLACE THE PUBLIC GUARDIAN AND TRUSTEE AS STATUTORY GUARDIAN OF PROPERTY BY A PERSON AUTHORIZED TO APPLY UNDER SUBSECTION 17(1)1, 2, 3, 4

(Please note: attach additional pages if more space is needed)

Name of Incapable Person (in full): _____

(Surname, first and initials)

Address: _____

_____

Telephone: Residence_____ Date of Birth: _____

(Day, Month, Year)

Your relationship to the incapable person is:

1. ☐ spouse * 2. ☐ partner ** 3. ☐ relative _____

(describe relation)

Or, you are a:

4. ☐ trust corporation

5. ☐ attorney under a continuing power of attorney made prior to the date the Certificate of Incapacity was issued and which does not give the attorney authority over all of the incapable person's property

Attachment(s) required:

☐ if box 4 above is completed, copy of the consent of the incapable person's spouse or partner

☐ if box 5 above is completed, copy of continuing power of attorney

*'Spouse' means a person of the opposite sex,

(a) to whom the person is married, or

(b) with whom a person is living in a conjugal relationship outside marriage, if the two persons:

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

(iii) have together entered into a cohabitation agreement under Section 53 of the *Family Law Act*.

** Two persons are 'partners' if they have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives.

Please list any other person who is entitled to apply under subsection 17(1) *** who is known to you. Please state whether you have informed each person listed on your application for statutory guardianship and indicate if they have informed you of whether they support or oppose your appointment.

*** Any of the following persons may apply to the Public Guardian and Trustee to replace the Public Guardian and Trustee as an incapable person's statutory guardian of property:

(i) the incapable person's spouse or partner,
(ii) a relative of the incapable person,
(iii) the incapable person's attorney under a continuing power of attorney, if the power of attorney was made before the Certificate of Incapacity was issued and does not give the attorney authority over all of the incapable person's property, or
(iv) a trust corporation within the meaning of the *Loan and Trust Corporations Act*, if the incapable person's spouse or partner consents in writing to the application.

Name	Person(s) Informed Yes/No	Relationship to Incapable Person	Address and Telephone Number	Support or Oppose Application

Applicant's Statement:

1. Have you been in personal contact with the incapable person during the preceding 12-month period?

   Or, if you are a trust corporation, has the incapable person's spouse or partner been in personal contact with the incapable person during the preceding 12-month period?

   ☐ Yes ☐ No

2. Are you willing to perform all duties required of a guardian in respect of the incapable person's property and do you agree to act in accordance with the Management Plan?

   ☐ Yes ☐ No

3. To the best of my knowledge and belief, the total approximate value of the property of the incapable person is $_____. Particulars of the assets and their respective approximate value are listed on the attached Management Plan, forming part of this application.
   (If you are a trust corporation, please skip questions 4-8)

4. Is your relationship with the incapable person a friendly one?

   ☐ Yes ☐ No

5. Have you been found guilty of any offence relating to financial mismanagement under the *Criminal Code*?

☐ Yes ☐ No

6. Are you an undischarged bankrupt?

☐ Yes ☐ No

7. Have you been held liable in a civil proceeding relating to fraud, breach of trust or any other type of financial mismanagement?

☐ Yes ☐ No

8. I understand that the Public Guardian and Trustee may refuse my application unless I provide a bond securing the value of the incapable person's property in a form and amount agreeable to the Public Guardian and Trustee of Ontario.

☐ Yes ☐ No

NOTE: Attach Management Plan

SUBSECTIONS 89(5) and (6) OF THE *SUBSTITUTE DECISIONS ACT, 1992* PROVIDE:

ss. 89 (5): NO PERSON SHALL, IN A STATEMENT MADE IN A PRESCRIBED FORM, ASSERT SOMETHING THAT HE OR SHE KNOWS TO BE UNTRUE OR PROFESS AN OPINION THAT HE OR SHE DOES NOT HOLD.

ss. 89 (6): A PERSON WHO CONTRAVENES SUBSECTION (5) IS GUILTY OF AN OFFENCE AND IS LIABLE, ON CONVICTION, TO A FINE NOT EXCEEDING $10,000.00

_____ _____

Date Signature of proposed Statutory Guardian(s) of Property or, if a trust corporation an authorized signing officer

Name (s): _____

(Please Print)

_____

Address (es): _____

_____

_____

Telephone number(s): _____

NOTE: If you are proposing the appointment of two or more persons as joint statutory guardians, please indicate to which applicant the property and accounts, if applicable, and the Certificate of Statutory Guardianship should be delivered if the appointment is made:

Name of proposed statutory guardian of property: _____

Address: _____

_____

Telephone: _____

Notice to the Applicants:

1. The personal information contained in your application is collected under the authority of section 17 of the *Substitute Decisions Act, 1992*, and will be used to process your application to replace the Public Guardian and Trustee as statutory guardian of property in accordance with the law and policies of the Office of the Public Guardian and Trustee. Questions about this collection of information should be directed to:

   Office of the Public Guardian and Trustee
   595 Bay Street, Suite 800
   Toronto, Ontario, M5G 2M6
   Tel: (416) 314-2800
   Attention: Screening Unit

Notice of Fee

The Public Guardian and Trustee charges a fee of **$382.00 plus GST of $22.92** for processing an application for statutory guardianship, under the authority of s.8 of the *Public Guardian and Trustee Act*. This fee will be collected from the incapable person's property at the time the application process is completed or, if insufficient funds are held by the Public Guardian and Trustee, will be payable by the applicant prior to issuance of the certificate of statutory guardianship. In cases where payment of the fee will cause undue financial hardship to the incapable person, it is possible to obtain a waiver of the fee.

FORM 1 SAMPLE

APPLICATION TO REPLACE THE PUBLIC GUARDIAN AND TRUSTEE AS STATUTORY GUARDIAN OF PROPERTY BY A PERSON AUTHORIZED TO APPLY UNDER SUBSECTION 17(1)1, 2, 3, 4

(Please note: attach additional pages if more space is needed)

Name of Incapable Person (in full): **Smith, Mary**
(Surname, first and initials)

Address: **Anytown Long Term Care Facility**
171 West Any Street, Anytown, Ont., N0T 0N3

Telephone: Residence **(519) 865-1873** Date of Birth: **14** (Day) **April** (Month) **1923** (Year)

Your relationship to the incapable person is:

1. ☐ spouse * 2. ☐ partner ** 3. ☒ relative **Daughter and son**
(describe relation)

Or, you are a:

4. ☐ trust corporation

5. ☐ attorney under a continuing power of attorney made prior to the date the Certificate of Incapacity was issued and which does not give the attorney authority over all of the incapable person's property

Attachment(s) required:

☐ if box 4 above is completed, copy of the consent of the incapable person's spouse or partner

☐ if box 5 above is completed, copy of continuing power of attorney

*'Spouse' means a person of the opposite sex,
(a) to whom the person is married, or
(b) with whom a person is living in a conjugal relationship outside marriage, if the two persons:
(i) have cohabited for at least one year,
(ii) are together the parents of a child, or
(iii) have together entered into a cohabitation agreement under Section 53 of the *Family Law Act*.

** Two persons are 'partners' if they have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives.

Please list any other person who is entitled to apply under subsection 17(1) *** who is known to you. Please state whether you have informed each person listed on your application for statutory guardianship and indicate if they have informed you of whether they support or oppose your appointment.

*** Any of the following persons may apply to the Public Guardian and Trustee to replace the Public Guardian and Trustee as an incapable person's statutory guardian of property:

(i) the incapable person's spouse or partner,
(ii) a relative of the incapable person,
(iv) the incapable person's attorney under a continuing power of attorney, if the power of attorney was made before the Certificate of Incapacity was issued and does not give the attorney authority over all of the incapable person's property, or
(iv) a trust corporation within the meaning of the *Loan and Trust Corporations Act*, if the incapable person's spouse or partner consents in writing to the application.

Name	Person(s) Informed Yes/No	Relationship to Incapable Person	Address and Telephone Number	Support or Oppose Application
Joseph Smith	**Yes**	**Son**	**125 4/5th Street, NYC (202) 546-9485**	**Support**
Aimee Doe	**Yes**	**Granddaughter**	**RR 2, Anytown, Ont., N0T 0N3 (519) 865-0982**	**Support**
George Smith	**Yes**	**Brother**	**11 Burrell Ave., Toronto M4X 2R5 (647) 221-7942**	**Oppose**

Applicant's Statement:

1. Have you been in personal contact with the incapable person during the preceding 12-month period?

   Or, if you are a trust corporation, has the incapable person's spouse or partner been in personal contact with the incapable person during the preceding 12-month period?

   ☒ Yes ☐ No

2. Are you willing to perform all duties required of a guardian in respect of the incapable person's property and do you agree to act in accordance with the Management Plan?

   ☒ Yes ☐ No

3. To the best of my knowledge and belief, the total approximate value of the property of the incapable person is $ **166,102.00**. Particulars of the assets and their respective approximate value are listed on the attached Management Plan, forming part of this application.

   (If you are a trust corporation, please skip questions 4-8)

4. Is your relationship with the incapable person a friendly one?

   ☒ Yes ☐ No

5. Have you been found guilty of any offence relating to financial mismanagement under the *Criminal Code*?

☐ Yes ☒ No

6. Are you an undischarged bankrupt?

☐ Yes ☒ No

7. Have you been held liable in a civil proceeding relating to fraud, breach of trust or any other type of financial mismanagement?

☐ Yes ☒ No

8. I understand that the Public Guardian and Trustee may refuse my application unless I provide a bond securing the value of the incapable person's property in a form and amount agreeable to the Public Guardian and Trustee of Ontario.

☒ Yes ☐ No

NOTE: Attach Management Plan

SUBSECTIONS 89(5) and (6) OF THE *SUBSTITUTE DECISIONS ACT, 1992* PROVIDE:

ss. 89 (5): NO PERSON SHALL, IN A STATEMENT MADE IN A PRESCRIBED FORM, ASSERT SOMETHING THAT HE OR SHE KNOWS TO BE UNTRUE OR PROFESS AN OPINION THAT HE OR SHE DOES NOT HOLD.

ss. 89 (6): A PERSON WHO CONTRAVENES SUBSECTION (5) IS GUILTY OF AN OFFENCE AND IS LIABLE, ON CONVICTION, TO A FINE NOT EXCEEDING $10,000.00

27 June 2007
Date

"Britney Doe" / "Jake Smith"
Signature of proposed Statutory Guardian(s) of Property or, if a trust corporation an authorized signing officer

Name (s): **1. Britney Doe**
(Please Print)
2. Jake Smith

Address (es): 1. 1474 St. Paul Street, Someplace, Ont., N0W 0N3
2. 2511 Oakmount Crescent, Anytown, Ont., N0T 0N3

Telephone number(s): **1. (705) 856-1238 2. (519) 865-4352**

NOTE: If you are proposing the appointment of two or more persons as joint statutory guardians, please indicate to which applicant the property and accounts, if applicable, and the Certificate of Statutory Guardianship should be delivered if the appointment is made:

Name of proposed statutory guardian of property: **Britney Doe**

Address: **1474 St. Paul Street, Someplace, Ont., N0W 0N3**

Telephone: **(705) 856-1238**

Notice to the Applicants:

1. The personal information contained in your application is collected under the authority of section 17 of the *Substitute Decisions Act, 1992*, and will be used to process your application to replace the Public Guardian and Trustee as statutory guardian of property in accordance with the law and policies of the Office of the Public Guardian and Trustee. Questions about this collection of information should be directed to:

Office of the Public Guardian and Trustee
595 Bay Street, Suite 800
Toronto, Ontario, M5G 2M6
Tel: (416) 314-2800
Attention: Screening Unit

Notice of Fee

The Public Guardian and Trustee charges a fee of **$382.00 plus GST of $22.92** for processing an application for statutory guardianship, under the authority of s.8 of the *Public Guardian and Trustee Act*. This fee will be collected from the incapable person's property at the time the application process is completed or, if insufficient funds are held by the Public Guardian and Trustee, will be payable by the applicant prior to issuance of the certificate of statutory guardianship. In cases where payment of the fee will cause undue financial hardship to the incapable person, it is possible to obtain a waiver of the fee.

FORM 2 MANAGEMENT PLAN

Note: ***Where the document is completed as part of an application for court appointed guardianship of property, please insert general heading and court file number.***

A. This Management Plan is provided as part of the application made by:

_____
(Full names(s) of applicant(s))

to be appointed as guardian of the property of

_____
(Full name of person for whom guardianship is sought)

To the best of my knowledge and belief, the assets, liabilities, income and expenditures of

_____
(Name of person for whom guardianship is sought)

at this date are stated below. My plans for managing them and the reasons for these plans are as follows:

Complete the parts below that apply to the finances of the person for whom guardianship is sought. Attach additional pages if the space below is insufficient. Where a part does not apply, write 'None' or 'Not Applicable' in the space provided.

B. **LAND:**

Type and address of property or properties	Estimated market value
	TOTAL:

PLAN:

For each of the above noted properties indicate your plans (e.g., sell at market value, lease at market value, other), the anticipated time frame for completing the transactions, if applicable, and your reasons for these plans:

_____
_____
_____

C. **GENERAL HOUSEHOLD ITEMS AND VEHICLES:** (*Give general description for vehicles, list year, model, make.)*

Item	Particulars	Estimated Current Market Value
General Household: Vehicles:		
		TOTAL:

PLAN:

Explain your plans for these items (e.g., retain for use of person for whom guardianship is sought, sell at market value, place in storage, gift, other) and your reasons for these plans:

_____
_____
_____

D. **VALUABLES** (*including antiques, art, collectibles, jewellery*):

Item	Particulars	Estimated Current Market Value
		TOTAL:

PLAN:

Explain your plans for these items (e.g., sell at market value, place in storage, other) and your reasons for these plans:

E. **SAVINGS AND SAVINGS PLANS** (*include cash, assets in financial institutions, registered retirement or other savings plans, deposit receipts, pension plans etc.*):

Category	Institution	Account Number	Current Amount or Value
			TOTAL:

PLAN:

Explain your plans for the savings described above (e.g., close current accounts and consolidate in a trust account, deposit cash, maintain savings plans, collapse plans as required to meet ongoing expenditures, etc.) and your reasons for these plans:

F. **SECURITIES AND INVESTMENTS** (*include bonds, shares, warrants, options, debentures, notes and any other securities*):

Category	Number	Description	Estimated Current Market Value
			TOTAL:

PLAN:

Explain your plans with respect to the above-noted securities and investments (e.g., maintain in current form, renew as required, convert, redeem, etc.) and your reasons for these plans:

G. **ACCOUNTS RECEIVABLE** *(include all debts owing to person for whom guardianship is sought):*

Particulars	Amount
	TOTAL:

PLAN:
Explain your plans regarding collection of the above-noted debts and your reasons for these plans:

_____
_____
_____

H. **BUSINESS INTERESTS:** *(Show any interests owned by the person for whom guardianship is sought in an unincorporated business. An interest in an incorporated business may be shown here or under Securities.)*

Name of Firm or Company	Interest	Estimated Current Value
		TOTAL:

PLAN:
Explain your plans regarding the above-noted business interests (e.g., maintain, dissolve, sell, etc.) and your reasons for these plans:

_____
_____
_____

I. **OTHER PROPERTY:** *(Show any other property owned by the person for whom guardianship is sought and which is not shown above.)*

Category	Particulars	Estimated Current Market Value
		TOTAL:

PLAN:
Explain your plans for the property described above and the reasons for these plans:

_____
_____
_____

J. **LIABILITIES:** *(Show the debts owed by the person for whom guardianship is sought including personal loans, credit card balances, outstanding bills, income tax owing, etc.)*

Description of Debt	Particulars	Amount of Debt
		TOTAL:

PLAN:
Explain your plans with respect to these debts and the reasons for these plans:

_____

_____

_____

K. **INCOME:** *(Show net income from all sources on an annual basis.)*

Type of Income	Particulars	Approximate Annual Amount
Pension Employment Interest Rental Business Other		
		TOTAL:

PLAN:
Explain your plans for the collection, deposit and allocation of the income described above:

_____

_____

_____

L. **EXPENSES:** (*Describe the expenses, calculated on an annual basis, which you anticipate will be required to be made on behalf of the person for whom guardianship is sought.*)

Expense	Particulars	Approximate Annual Amount
Residential Utilities Recreational/Entertainment Travel Personal Care Support for Dependents Property Maintenance Gifts Loans Charitable Donations Other		
		TOTAL:

PLAN:

Explain below:

(a) Whether any of the payments described above are of direct or indirect financial benefit to you, a person you live with or to whom you are related. If so, please explain why these payments are necessary and appropriate:

_____
_____
_____

(b) Whether any significant increases or decreases in the above expenditures are anticipated, or whether any additional expenditures are likely. If so, please explain:

_____
_____
_____

(c) Whether the expenditures listed above will adequately meet the personal needs and maximize the enjoyment of life of the person for whom guardianship is sought:

_____
_____
_____

(d) If you are planning to make gifts, loans or charitable donations, please explain the reasons why you believe these expenditures are appropriate:

_____
_____
_____

(e) If payments to dependents, or for their benefit, are required please provide details about the nature of these payments and the reasons for them:

_____
_____
_____

(f) Are there any expenditures which others have recommended which you are <u>not</u> planning to make? If so, please explain:

_____
_____
_____

M. **LEGAL PROCEEDINGS:** *(Identify any current legal proceedings relating to property to which he or she is a party including any civil or criminal proceedings.)*

Nature of Legal Proceedings	Status of Proceedings

PLAN:

(a) Please explain your plans in respect of these proceedings:

_____

_____

_____

Do you anticipate that legal proceedings may need to be commenced or defended on the person's behalf in respect of his or her property? If so, please explain:

_____

_____

_____

(b) What arrangements for legal representation for the person have been made or do you propose?

_____

_____

_____

(c) Are you aware of any existing court orders or judgments which are relevant to the management of the person's property? If yes, describe or attach copies.

☐ Yes ☐ No If yes, describe:

_____

_____

_____

N. **ADDITIONAL INFORMATION:**

(a) I have consulted with the person for whom guardianship is sought in making this plan: *(check one)*

☐ Yes ☐ No If no, please provide reasons:

_____

_____

_____

(b) I have consulted with the following other people in preparing this plan:

_____

_____

_____

(c) To the best of my knowledge, the person for whom guardianship is sought would not object to any aspect of this management plan: *(check one)*

☐ Yes, would object ☐ No, would not object

If yes, please explain: _____

_____

_____

(d) I am aware of my duty to encourage the participation of the person for whom guardianship is sought in decisions I may make and to consult with supportive family and friends and caregivers. My plans to do so are as follows: *(briefly describe)*

_____

_____

_____

(e) I am aware that I would, as guardian of property, be required to make reasonable efforts to determine whether the person for whom guardianship is sought has a will and, if so, what the provisions of the will are and I am entitled to obtain the incapable person's will. My plans to do so are as follows:

_____

_____

_____

(f) I am aware that I am not to dispose of property that I know is subject to a specific testamentary gift in the will of the person for whom guardianship is sought unless the specific testamentary gift is of money or if the disposition of that property is necessary to comply with my duties as guardian of property or to make a gift of the property to the person who would be entitled to it under the will, if the gift is authorized by section 37 of the *Substitute Decisions Act, 1992*.

SUBSECTIONS 32(10) and 32(11) OF THE *SUBSTITUTE DECISIONS ACT, 1992*, PROVIDE:

ss.32(10): A GUARDIAN SHALL ACT IN ACCORDANCE WITH THE MANAGEMENT PLAN.

ss.32(11): IF THERE IS A MANAGEMENT PLAN, IT MAY BE AMENDED FROM TIME TO TIME WITH THE PUBLIC GUARDIAN AND TRUSTEE'S APPROVAL.

SUBSECTIONS 89(5) AND 89(6) of the *SUBSTITUTE DECISIONS ACT, 1992*, PROVIDE:

ss.89(5): NO PERSON SHALL, IN A STATEMENT MADE IN A PRESCRIBED FORM, ASSERT SOMETHING THAT HE OR SHE KNOWS TO BE UNTRUE OR PROFESS AN OPINION THAT HE OR SHE DOES NOT HOLD.

ss.89(6): A PERSON WHO CONTRAVENES SUBSECTION (5) IS GUILTY OF AN OFFENCE AND IS LIABLE, ON CONVICTION, TO A FINE NOT EXCEEDING $10,000.00.

_____
Date

_____
Signature of proposed Guardian (s) of property

Name (s) (please print) : _____

_____

Address (es) : _____

_____

Telephone number (s) : _____

FORM 2 - MANAGEMENT PLAN SAMPLE

Note: Where the document is completed as part of an application for court appointed guardianship of property, please insert general heading and court file number.

A. This Management Plan is provided as part of the application made by:

Britney Doe and Jake Smith

(Full names[s] of applicant[s])

to be appointed as guardian of the property of

Mary Smith

(Full name of person for whom guardianship is sought)

To the best of my knowledge and belief, the assets, liabilities, income and expenditures of

Mary Smith

(Name of person for whom guardianship is sought)

at this date are stated below. My plans for managing them and the reasons for these plans are as follows:

Complete the parts below that apply to the finances of the person for whom guardianship is sought.

Attach additional pages if the space below is insufficient. ***Where a part does not apply, write "None" or "Not Applicable" in the space provided.***

B. **LAND:**

Type and address of property or properties	Estimated market value
Single-family dwelling (vacant) located at 3131 Jay Lane, Anytown, Ont., N0T 0N3, held in joint tenancy with spouse (he died last year).	**(Mary Smith has a 100% interest in property) $ 100,000.00**
	TOTAL: **$100,000.00**

PLAN:

*For each of the above noted properties indicate your plans (*e.g., *sell at market value, lease at market value, other), the anticipated time frame for completing the transactions, if applicable, and your reasons for these plans:*

Obtain temporary vacancy permit and insurance. Register a Survivor Application on title to terminate the joint tenancy since husband died. Obtain two independent appraisals of property. Sell at fair market value. On receiving professional financial advice apply proceeds for the benefit of Mary Smith. Property is to be sold because Mary is in a Long Term Care setting and needs liquid assets to meet her ongoing needs and expenses.

C. **GENERAL HOUSEHOLD ITEMS AND VEHICLES:** (*Give general description for vehicles, list year, model, make.)*

Item	Particulars	Estimated Current Market Value
General household:	**Chattels in house: old furniture**	**$100.00**
Vehicles:	**1977 Olds Cutlass – needs tune up, bodywork and other repairs**	**$500.00**
		TOTAL: **$600.00**

PLAN:

*Explain your plans for these items (*e.g., *retain for use of person for whom guardianship is sought, sell at market value, place in storage, gift, other) and your reasons for these plans:*

Furniture to be sold at fair market value or disposed of as scrap. Car is presently insured in name of Mary Smith and will be sold at fair market value. All proceeds from the sale of the car and household items to be applied to meet Mary's ongoing needs and expenses.

D. **VALUABLES** (*including antiques, art, collectibles, jewellery*):

Item	Particulars	Estimated Current Market Value
18K ring with diamond	**Wedding ring**	**$500.00**
	TOTAL:	**$500.00**

PLAN:

Explain your plans for these items (e.g., *sell at market value, place in storage, other) and your reasons for these plans:*

Retain for Mary Smith to continue to wear. The ring has great sentimental value to her.

E. **SAVINGS AND SAVINGS PLANS** (*include cash, assets in financial institutions, registered retirement or other savings plans, deposit receipts, pension plans* etc.):

Category	Institution	Account Number	Current Amount or Value
Chequing account (held jointly with late spouse)	**CIBC, Anytown, Ontario**	**17328-023912**	**(Mary Smith has a 100% interest in these savings)** **$14,000.00**
Savings account (held jointly with Jake Smith, guardianship applicant)	**TD-CT, Anytown, Ontario**	**395-661-588**	**Full value: $2000** **$1,000.00** **(Mary has one-half interest)**
			TOTAL: **$15,000.00**

PLAN:

Explain your plans for the savings described above (e.g., *close current accounts and consolidate in a trust account, deposit cash, maintain savings plans, collapse plans as required to meet ongoing expenditures,* etc.*) and your reasons for these plans:*

Split the funds in the TD-CT account and close it. Close current accounts and consolidate into a trust account. Redirect income from all sources to be deposited into this account. Use funds from account to meet Mary's ongoing expenses and apply excess funds, on receipt of professional financial advice, toward a conservative investment portfolio, held in trust. We would be prepared to file an accounting re TD-CT account showing Mary's half interest, if requested by the Public Guardian and Trustee

F. **SECURITIES AND INVESTMENTS** (*include bonds, shares, warrants, options, debentures, notes and any other securities*):

Category	Number	Description	Estimated Current Market Value
Canada Savings Bond	**A9493291**	**Series 6, 6% return semi-annual, renewable June 1, 2006**	**$30,000.00**
		TOTAL:	**$30,000.00**

PLAN:

Explain your plans with respect to the above-noted securities and investments (e.g., *maintain in current form, renew as required, convert, redeem,* etc.*) and your reasons for these plans:*

Redeem bond when it matures. Seek professional financial advice about investment of the proceeds in further conservative investments and securities to be held in trust for the benefit of Mary Smith.

G. **ACCOUNTS RECEIVABLE** *(include all debts owing to person for whom guardianship is sought):*

Particulars	Amount
Interest in Estate of spouse, Jim Smith, an intestacy	**$ 1.00**
	TOTAL: **$1.00**

PLAN:

Explain your plans regarding collection of the above-noted debts and your reasons for these plans:

Value of Mary's interest unknown, but estate's value known to be small. Nominal value assigned to estate for now. On Mary Smith receiving her full entitlement to this estate, proceeds would be invested in trust in a conservative investment portfolio. The Public Guardian and Trustee will be notified once her interest in the Estate is fully known. If necessary, Jake Smith, joint applicant for guardianship will apply to administer estate.

H. **BUSINESS INTERESTS:** *(Show any interests owned by the person for whom guardianship is sought in an unincorporated business. An interest in an incorporated business may be shown here or under securities.)*

Name of Firm or Company	Interest	Estimated Current Value
None	**N/A**	**$0.00**
		TOTAL: **$0.00**

PLAN:

*Explain your plans regarding the above-noted business interests (*e.g., *maintain, dissolve, sell,* etc.*) and your reasons for these plans:*

Not applicable

I. **OTHER PROPERTY:** *(Show any other property owned by the person for whom guardianship is sought and which is not shown above.)*

Category	Particulars	Estimated Current Market Value
1. Pre-paid funeral plan	**Anytown Funerals Inc.**	**$5,000.00**
2. Safety Deposit box	**Located at CIBC, Anytown**	**$1.00**
3. Life Insurance	**Geneva-Swiss, equity on policy**	**$3,000.00**
	TOTAL:	**$8,001.00**

PLAN:

Explain your plans for the property described above and the reasons for these plans:

1. Plan is paid in full. Maintain plan and use as required. 2. Contents unknown. Nominal value assigned. Plan to open box and determine existence of assets. Report of assets to be provided to Public Guardian and Trustee. If any assets in box, professional financial advice to be sought on how to best apply proceeds for our mother's benefit. 3. Maintain equity on policy, beneficiaries: Mary's grandchildren.

J. **LIABILITIES:** *(Show the debts owed by the person for whom guardianship is sought including personal loans, credit card balances, outstanding bills, income tax owing,* etc.*)*

Description of Debt	Particulars	Amount of Debt
1. Credit card	**CIBC Visa 1929 9993 3222**	**$3,000.00**
2. Mortgage	**CT-TD Mortgage instrument AK843923 registered in Algoma LRO**	**$15,000.00**
	TOTAL:	**$18,000.00**

PLAN:

Explain your plans with respect to these debts and the reasons for these plans:

1. Cancel credit card; make monthly payments toward reducing debt. 2. Make payments as required under mortgage. On sale of the house pay off outstanding balance on credit cards and mortgage.

K. **INCOME:** *(Show net income from all sources on an annual basis.)*

Type of Income	Particulars	Approximate Annual Amount
Pension	OAS	$8,172.00
	GIS	$4,566.00
	Private: ABC Inc.	$12,256.00
Employment	n/a	$0.00
Interest	From Canada Bond	$500.00
Rental	n/a	$0.00
Business	n/a	$0.00
Other	GST refund	$304.00
	TOTAL:	**$25,798.00**

PLAN:

Explain your plans for the collection, deposit and allocation of the income described above:

Deposit into newly proposed trust account referenced in section (E). Income in excess of expenses to be applied pursuant to the plan set out in section L (c) of this Management Plan.

L. **EXPENSES:** (*Describe the expenses, calculated on an annual basis, which you anticipate will be required to be made on behalf of the person for whom guardianship is sought.*)

Expense	Particulars	Approximate Annual Amount
Residential	**LTC facility + Mortgage payments**	**$15,000.00 + $3,600.00 = $18,600.00**
Utilities	**Hydro, gas**	**$300.00**
Recreational/Entertainment	**Included in LTC facility, Anytown**	**$0.00**
Travel	**Not applicable**	**$0.00**
Personal Care	**For meds, clothes, hair**	**$1,500.00**
Support for Dependants	**Not applicable**	**$0.00**
Property Maintenance	**Taxes on home**	**$500.00**
Gifts	**Xmas/birthdays gifts to grandchildren**	**$500.00**
Loans	**None**	**$0.00**
Charitable Donations	**Tithes to church: $5 per week**	**$260.00**
Other	**Insurance premium + credit card payments**	**$240.00 + $1800.00= $2040.00**
	TOTAL:	**$23,700.00**

PLAN:

Explain below:

(a) Whether any of the payments described above are of direct or indirect financial benefit to you, a person you live with or to whom you are related. If so, please explain why these payments are necessary and appropriate:

No.

(b) Whether any significant increases or decreases in the above expenditures are anticipated, or whether any additional expenditures are likely. If so, please explain:

Costs at LTC facility, Anytown, likely to increase. However, our mother's income is still higher than her expenses. Her medical costs will also likely rise as she ages.

(c) Whether the expenditures listed above will adequately meet the personal needs and maximize the enjoyment of life of the person for whom guardianship is sought:

Yes. In addition, we intend to seek professional financial advice to decide whether excess income should be applied toward Mary Smith's investment portfolio, toward improved care facilities or toward a combination thereof.

(d) If you are planning to make gifts, loans or charitable donations, please explain the reasons why you believe these expenditures are appropriate:

Our mother was very fond of her grandchildren and always was generous with gifts. Our mother regularly attended church and was known to historically tithe about $5 per week.

(e) If payments to dependents, or for their benefit, are required please provide details about the nature of these payments and the reasons for them:

Our mother has no dependents.

(f) Are there any expenditures which others have recommended which you are not planning to make? If so, please explain:

No

M. **LEGAL PROCEEDINGS:** *(Identify any current legal proceedings relating to property to which he or she is a party including any civil or criminal proceedings.)*

Nature of Legal Proceedings	Status of Proceedings
Settlement and administration of estate of late spouse, Jim Smith.	**Applicant for joint guardianship has applied to the Ontario Superior Court for a Certificate of Appointment of Estate Trust without a Will.**

PLAN:

(a) Please explain your plans in respect of these proceedings:

On being appointed as administrator of the estate, proceed to distribute in accordance with the law.

(b) Do you anticipate that legal proceedings may need to be commenced or defended on the person's behalf in respect of his or her property? If so, please explain:

No, the proceedings are likely to proceed on a non-contentious basis.

(c) What arrangements for legal representation for the person have been made or do you propose?

None, legal proceedings only indirectly relate to the incapable person.

(d) Are you aware of any existing court orders or judgements which are relevant to the management of the person's property? If yes, describe or attach copies.

☐ Yes ☒ No If yes, describe:

Not applicable

N. **ADDITIONAL INFORMATION:**

(a) I have consulted with the person for whom guardianship is sought in making this plan: (check one)

☒ Yes ☐ No If no, please provide reasons:

Not applicable

(b) I have consulted with the following other people in preparing this plan:

Joseph Smith, son of incapable person; Aimee Doe, granddaughter of incapable person; Frank Singh, social worker at LTC facility, Anytown; Tom Chung, client representative with Public Guardian and Trustee's office; Mark Brown, family lawyer.

(c) To the best of my knowledge, the person for whom guardianship is sought would not object to any aspect of this management plan: *(check one)*

☐ Yes, would object ☒ No, would not object

If yes, please explain: _____

(d) I am aware of my duty to encourage the participation of the person for whom guardianship is sought in decisions I may make and to consult with supportive family and friends and caregivers. My plans to do so are as follows: *(briefly describe)*

Supportive family and caregivers to be consulted about all important decisions to be made on behalf of Mary Smith.

(e) I am aware that I would, as guardian of property, be required to make reasonable efforts to determine whether the person for whom guardianship is sought has a will and, if so, what the provisions of the will are and I am entitled to obtain the incapable person's will. My plans to do so are as follows:

Mary Smith does not have a will. Legal advice will be retained to determine whether Mary Smith can make a will. The joint applicants are aware that they themselves cannot make a will for Mary Smith.

(f) I am aware that I am not to dispose of property that I know is subject to a specific testamentary gift in the will of the person for whom guardianship is sought unless the specific testamentary gift is of money or if the disposition of that property is necessary to comply with my duties as guardian of property or to make a gift of the property to the person who would be entitled to it under the will, if the gift is authorized by section 37 of the *Substitute Decisions Act, 1992*.

SUBSECTIONS 32(10) and 32(11) OF THE *SUBSTITUTE DECISIONS ACT, 1992*, PROVIDE:

ss.32(10): A GUARDIAN SHALL ACT IN ACCORDANCE WITH THE MANAGEMENT PLAN.

ss.32(11): IF THERE IS A MANAGEMENT PLAN, IT MAY BE AMENDED FROM TIME TO TIME WITH THE PUBLIC GUARDIAN AND TRUSTEE'S APPROVAL.

SUBSECTIONS 89(5) AND 89(6) of the *SUBSTITUTE DECISIONS ACT, 1992*, PROVIDE:

ss.89(5): NO PERSON SHALL, IN A STATEMENT MADE IN A PRESCRIBED FORM, ASSERT SOMETHING THAT HE OR SHE KNOWS TO BE UNTRUE OR PROFESS AN OPINION THAT HE OR SHE DOES NOT HOLD.

ss.89(6): A PERSON WHO CONTRAVENES SUBSECTION (5) IS GUILTY OF AN OFFENCE AND IS LIABLE, ON CONVICTION, TO A FINE NOT EXCEEDING $10,000.00.

June 27, 2007
Date

"Britney Doe" / "Jake Smith"
Signature of proposed guardian (s) of property

Name (s) (please print) :
1. Britney Doe
2. Jake Smith

Address (es) :
1. 1474 St. Paul Street, Someplace, Ont., N0W 0N3
2. 2511 Oakmount Cr., Anytown, Ont., N0T 0N3

Telephone number (s) : 1. (705) 856-1238 2. (519) 865-4352